

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LAW OFFICES OF SHIMSHON WEXLER, P.C.,  
a New York professional company, individually  
and as the representative of a class of similarly-  
situated persons,

Plaintiff,

v.

AICOM SOLUTIONS LLC d/b/a AICOM  
CORPORATION; TIME WARNER CABLE LLC  
d/b/a SPECTRUM; TIME WARNER CABLE  
MEDIA LLC; CHARTER COMMUNICATIONS  
INC.; CHARTER COMMUNICATIONS  
OPERATING LLC; and JOHN DOES 1–10,

Defendants.

CASE NO. 1:17-cv-08573-AKH

**DECLARATION OF DANIEL GAYNOR IN SUPPORT OF THE CHARTER  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

1. I am an attorney licensed to practice before this Court *pro hac vice*. I am an associate at Kabat, Chapman & Ozmer LLP, attorneys of record for Defendants Time Warner Cable LLC (“TWC”), Time Warner Cable Media LLC (“TWCM”), Charter Communications, Inc. (“CCI”), Charter Communications Operating, LLC (“CCO”) (collectively, the “Charter Defendants”).

2. On April 30, 2018, the Charter Defendants deposed Plaintiff’s corporate representative—Shimshon Wexler. A true and correct copy of the portions of Mr. Wexler’s deposition transcript (and related exhibits) cited in The Charter Defendants’ Motion are attached hereto as Exhibit C (“Wexler Dep.”).

3. On April 9, 2018, TWC served its response to Plaintiff's First Interrogatories. A true and correct copy of the portions of these responses cited in The Charter Defendants' Motion and Statement of Undisputed Material Facts are attached hereto as Exhibit D ("TWC Interrogs.").

4. On April 9, 2018, TWCM served its response to Plaintiff's First Interrogatories. A true and correct copy of the portions of these responses cited in The Charter Defendants' Motion and Statement of Undisputed Material Facts are attached hereto as Exhibit E ("TWCM Interrogs.").

5. On April 9, 2018, CCI served its response to Plaintiff's First Interrogatories. A true and correct copy of the portions of these responses cited in The Charter Defendants' Motion and Statement of Undisputed Material Facts are attached hereto as Exhibit F ("CCI Interrogs.").

6. On April 9, 2018, CCO served its response to Plaintiff's First Interrogatories. A true and correct copy of the portions of these responses cited in The Charter Defendants' Motion and Statement of Undisputed Material Facts are attached hereto as Exhibit G ("CCO Interrogs.").

7. On April 27, 2018, Plaintiff produced certain documents to the Charter Defendants. True and correct copies of the produced documents cited in The Charter Defendants' Motion and Statement of Material Facts are attached hereto as Exhibit H.

8. On February 23, 2018, the Court held a case management conference. During that conference, the Charter Defendants' counsel requested that the Court bifurcate discovery in this case.

9. During the first phase of discovery in this case, Plaintiff and the Charter Defendants exchanged requests for production of documents pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure, subpoenaed third parties pursuant to Rule 45, Plaintiff served interrogatories on the Charter Defendants pursuant to Rule 33, and the Charter Defendants took Plaintiff's

deposition. Plaintiff did not take any depositions and made no effort to secure discovery from AICOM Corp. Philippines, Inc. of which I am aware.

10. On April 23, 2018, the Charter Defendants produced documents to Plaintiff, including audio recordings labelled: CHARTER\_000001” and “CHARTER\_000007.” A transcription of these audio recordings, with personally identifiable information redacted, is attached hereto as Exhibit I. CHARTER\_000001 is transcribed at 2:5–4:7. CHARTER\_000007 is transcribed at 4:12–5:15. Plaintiff’s counsel has stipulated that Plaintiff will not object to the Charter Defendants’ use of Exhibit I in lieu of the actual audio recordings from which the transcription was made.

11. On July 31, 2018, Verizon produced certain records to the Charter Defendants. True and correct copies of the produced documents cited in the Charter Defendants’ Motion and Statement of Undisputed Material Facts are attached hereto as Exhibit J. These records have been partially redacted per an agreement between Plaintiff’s counsel and the Charter Defendants’ counsel.

12. On My 3, 2018, Plaintiff produced certain documents to the Charter Defendants. True and correct copies of the produced documents cited in the Charter Defendants’ Motion and Statement of Undisputed Material Facts are attached hereto as Exhibit K. These records have been partially redacted per an agreement between Plaintiff’s counsel and the Charter Defendants’ counsel.

13. On or about April 26, 2018, Plaintiff served its Objections and Responses to CCI’s First Set of Document Requests to Plaintiff. A true and correct copy of the portions of those responses is attached hereto as Exhibit L.

I, DANIEL GAYNOR, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that

the foregoing is true and correct.

Executed on August 3, 2018.



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Daniel H. Gaynor